S.B.Civil Restoration Application No.407/2006
in
S.B.Civil First Appeal No.345/2001

Mohammed Sauyab vs. Gulab Nabi & Ors.

1.12.2006

HON'BLE MR.JUSTICE K.C.SHARMA

Mr.O.P.Mishra for applicant.

Heard learned counsel for the applicant on the restoration application as well as on the application under Section 5 of the Limitation Act.

For the reasons mentioned in the application, the application under Section 5 of the Limitation Act is allowed and the delay of 6 days in filing the restoration application is, condoned.

Learned counsel for the applicant submits that vide order dated 30.8.2006 this Court granted four weeks' time for taking necessary steps to get the paper book prepared which was a per-emptory order. Counsel further submits that on 22.9.2006 i.e. within the period of four weeks, an application seeking dispensing with filing of the paper book was filed but due to mistake in place of appeal No.`

345/2001' appeal No.`**245/2001**' was mentioned and for this reason, the application could not be placed on the record of the file. In such circumstances, the appeal was dismissed by the Deputy Registrar (Judl.) vide order dated 1.11.2006. Counsel submits that as soon as this mistake came to the notice of counsel for the applicant, the application was traced and the numbers were corrected. On this strength, learned counsel for the applicant prays for restoration of the appeal as due to bonafide mistake correct numbers of appeal on the application could not mentioned. However, the mistake has been rectified immediately after it came to the notice.

In the facts and circumstances of the case and for the reasons mentioned in the restoration petition, the same is allowed and the appeal is directed to be restored to its original number.

(K.C.Sharma),J.

bairwa